

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

RICHARD RUDOLPH,

Plaintiff,

v.

ABBOTT LABORATORIES, INC,

Defendants.

Civil Action No.
3:18-cv-6071-PGS-TJB

MEMORANDUM AND ORDER

This case is before the Court by way of defendant's Motion to Amend the Amended Joint Final Pretrial Order (the "Pretrial Order") (ECF No. 92) for the purpose of (1) adding to its witness list Sean Treacy— Divisional Vice President, Business Human Resources, Abbott Diagnostics, and (2) supplementing its exhibit list with additional documents. (ECF No. 94). Since Plaintiff's counsel consented to Abbott's request to add thirty-six documents (36) to its exhibit list, the sole question before the Court is whether defendant may be permitted to add Sean Treacy as a witness to the Pretrial Order.

I.

This litigation began five years ago, and the discovery period ended approximately two years ago. Judge Bongiovanni filed the Pretrial Order on

January 25, 2023. Mr. Treacy was not deposed during discovery, and he was not listed as a witness in the Pretrial Order.

In April, 2023, Defendant filed this motion to amend the Pretrial Order to include Mr. Treacy as a witness. Defendant's counsel explained that since the firm was substituted into the case after the summary judgment motions were decided, it had no opportunity to undertake trial strategy; and "it became apparent to us that the more junior HR person who was on the witness list could not provide the higher level perspective that Mr. Treacy could provide." (T. 74, 16-19).

Ordinarily an final pretrial order will only be modified to prevent manifest injustice. Fed. R. Civ. P. 16(e). In this case, Defendant has not demonstrated that manifest injustice will occur. Mr. Treacy may have a "higher level perspective," however, this argument is not compelling when other witnesses are available. In addition, amending a final pretrial order is a slippery slope -- once an amendment is permitted, other requests often follow.

IT IS on this 30th day of June, 2023;

ORDERED that the motion to amend the Pretrial Order (ECF No. 92) is denied.



PETER G. SHERIDAN, U.S.D.J.